

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Index No.:

-----X
PEDRO RIVERA,

Plaintiff Designates

NEW YORK

County as the place of trial

Plaintiff,

-against-

The basis of venue is the Defendant

**PRINCIPAL PLACE OF
BUSINESS**ARCHDIOCESE OF NEW YORK, CHURCH OF THE
NATIVITY OF OUR BLESSED LADY, AND MARIST
BROTHERS OF THE SCHOOLS, INC., d/b/a THE
MARIST BROTHERS UNITED STATES OF
AMERICA PROVINCE,

Defendants.

Plaintiff reside at

County of BREVARD, FL

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To the abovenamed Defendants**SUMMONS**

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, and the Plaintiff's Attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: September 17, 2019
New York, New York

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Defendant's Addresses:

Archdiocese of New York
1011 First Avenue
New York, New York 10022

Church of the Nativity of Our Blessed Lady
1510 East 233rd Street
Bronx, New York 10466

The Marist Brothers of the Schools, Inc. a/k/a The Marist Brothers United States of America
Province
70-20 Juno Street
Forest Hills, New York 11375

**SUPREME COURT STATE OF NEW YORK
COUNTY OF NEW YORK**

-----x **Index No.**
PEDRO RIVERA,

Plaintiff,

VERIFIED COMPLAINT

-against-

**ARCHDIOCESE OF NEW YORK, CHURCH OF THE
NATIVITY OF OUR BLESSED LADY, AND MARIST
BROTHERS OF THE SCHOOLS, INC., d/b/a THE
MARIST BROTHERS UNITED STATES OF
AMERICA PROVINCE,**

Defendants.

-----x

Plaintiff, Pedro Rivera, by and through undersigned counsel, complaining of the

Defendants, upon information and belief, alleges as follows:

PARTIES, JURISDICTION, AND VENUE

1. This Complaint arises from the sexual battery of Plaintiff by Br. Damian Victor Galligan a/k/a Stanley T. Galligan (hereinafter “Br. Galligan”), on or about 1983 to 1986. This incident occurred while Plaintiff was an altar boy at Church of the Nativity of Our Blessed Lady.

2. Plaintiff is an adult resident of the State of Florida and is otherwise *sui juris*.

3. Defendant Archdiocese of New York is a Roman Catholic Diocese and is an unincorporated non-profit business entity licensed to and doing business in The State of New York with a principal place of business at 1011 1st Ave., New York, New York 10022.

4. Defendant Church of the Nativity of Our Blessed Lady (hereinafter “Church of the Nativity”) is a Roman Catholic parish within the Archdiocese of New York and an unincorporated New York business entity with a principal place of business at 1510 East 233rd St., Bronx, New York 10466.

5. Defendant The Marist Brothers of the Schools, Inc. a/k/a The Marist Brothers

United States of America Province (hereinafter “The Marist Brothers”) is a Catholic religious order and an incorporated business entity with a principal place of business at Marist Brothers Provincial Office, 70-20 Juno Street, Forest Hills, NY 11375.

6. Venue is proper in this Court because the Defendant Archdiocese has its principal place of business in New York County.

7. The provisions of Section 1602 of the CPLR do not apply to the within action including, but not limited to, nondelegable duty and/or the doctrine of respondeat superior.

8. Plaintiff brings this suit within the extended time period as provided for in Sections 208 and 214-G of the Civil Practice Law.

9. Jurisdiction is proper because this Complaint seeks monetary damages in excess of \$25,000.00, exclusive of interest, costs, and attorney’s fees.

10. At all times material, Br. Galligan was an ordained Roman Catholic brother employed by and an agent of Defendants Archdiocese of New York, Church of the Nativity, and Marist Brothers from approximately 1977 to 1987.

11. Br. Galligan was ordained as a Catholic religious brother with The Marist Brothers in 1945.

12. Upon information and belief, from 1946 to 1949, Br. Galligan attended Marian College, Albany, New York.

13. From 1953 to 1954, Br. Galligan worked as a teacher at Mount St. Michael Academy, Bronx, New York in the Archdiocese of New York.

14. From 1959 to 1964, Br. Galligan worked as a teacher at St. Joseph Academy, Brownsville, Texas in the Diocese of Brownsville.

15. From 1965 to 1966, Br. Galligan worked as a teacher at Marist High School, Bayonne, New Jersey in the Archdiocese of Newark.

16. Upon information and belief, from on or about 1970 to the end of 1986, Br. Galligan resided at his parents' house located at 4053 Monticello Ave., Bronx, New York.

17. Upon information and belief, from on or about 1977 to on or about 1987, Br. Galligan worked as a religious brother at Church of the Nativity of Our Blessed Lady, Bronx, New York in the Archdiocese of New York.

18. In fall of 1990, Br. Galligan attended a two-month renewal course at the Marist Generalate in Rome, Italy.

19. On or about 1994, Br. Galligan resided at the Marist Residence, Roselle Catholic High School, Roselle, New Jersey in the Archdiocese of Newark.

20. On or about 1991 to 2001, Br. Galligan resided at the Marist Residence located at 136th St., Miami, Florida in the Archdiocese of Miami. About this same time, he worked at nearby St. Richard's Parish.

21. On or about 2012 to 2013, Br. Galligan resided at a religious retirement facility in or around St. Louis, Missouri in the Archdiocese of St. Louis.

22. At least two (2) survivors have publicly accused Br. Galligan of sexual abuse that occurred when they were minors.

23. In a Delaware lawsuit, one man alleged that Br. Galligan sexually abused him from 1977 to 1983, between the ages of 8 and 13, while Br. Galligan worked at the Church of the Nativity of Our Blessed Lady.

24. In a 2009 Memorandum Opinion, the Delaware court summarized the facts as follows:

Plaintiff's grandmother was a parishioner at the Church of the Nativity. Plaintiff's grandmother introduced Plaintiff to Galligan. Galligan developed a close relationship with plaintiff, which plaintiff's family encouraged because of Galligan's status as an authority figure and holy man.

Beginning in the fall of 1977, when Plaintiff was eight years old, Galligan allegedly began to sexually assault, abuse, rape, and/or molest plaintiff. These acts of sexual abuse allegedly occurred on a regular basis between 1977 and 1987 in various locations in New York, New Jersey and Delaware.

During approximately summer of 1979, Galligan took plaintiff on an overnight trip to Rehoboth, Delaware. During this trip, plaintiff asserts that he was sexually assaulted, abused, raped and/or molested by Galligan. While returning to New Jersey from Delaware, plaintiff was again sexually assaulted, abused, raped and/or molested by Galligan at a Delaware rest stop. This trip is alleged to have been part of Galligan's brotherly duties and with the knowledge and authority of the moving defendants [Archdiocese of New York and Church of the Nativity].

Plaintiff again accompanied Galligan on a trip to visit Galligan's brother in Virginia during the summer of 1981. On the way to Virginia, Galligan stopped at the same rest stop in Delaware that he had visited in 1979 and allegedly sexually assaulted, abused, raped and/or molested plaintiff. While returning from Virginia, Galligan again stopped at the same Delaware rest stop and allegedly sexually assaulted, abused, raped and/or molested plaintiff. It is asserted that this trip occurred as a result of Galligan's position with the moving defendants [Archdiocese of New York and Church of the Nativity] and the authority given to him by the moving defendants. (*internal citations omitted*)

25. In the abovementioned lawsuit, Br. Galligan's video deposition was played before the jury. In the video deposition, Br. Galligan stated that he had sexually abused many boys, but that he could not remember how many.

26. The jury in the abovementioned Delaware case awarded the plaintiff \$2.4 million.

27. At all times relevant, Defendants Archdiocese of New York and/or Church of the Nativity were the legal owner and/or tenant/occupier of the church located at 1510 East 233rd St., Bronx, New York 10466.

28. By holding Br. Galligan out as safe to work with children, and by undertaking the custody, supervision of, and/or care of the minor Plaintiff, Defendants entered into a special relationship with the minor Plaintiff. As a result of Plaintiff being a minor, and by Defendant's undertaking the care and guidance of the then vulnerable Plaintiff, Defendants held a position of empowerment over Plaintiff.

29. Furthermore, Defendants, by holding themselves out as being able to provide a safe

environment for children, solicited and/or accepted this position of empowerment. This empowerment prevented the Plaintiff from effectively protecting himself, and Defendants thus entered into a special relationship with Plaintiff. By holding themselves out as a safe, moral, and trusted institution to Plaintiff's parents, Defendants induced Plaintiff's parents to entrust their child to Defendants and thereby deprived Plaintiff of the protection of his family.

30. At all times material, Br. Galligan's sexual abuse of Plaintiff was foreseeable. The problem of clergy sexual abuse of minors is well-documented throughout the history of the Roman Catholic Church. As far back as 1051, St. Peter Damian wrote in the *Book of Gomorrah* that clergy who defiled boys should be dismissed from holy orders. (*Book of Gomorrah*, Ch. 6). Later, St. Peter Damian wrote in his *Rule of the Monastery of Compludo*, about the punishment for "A cleric or monk who seduces youths or young boys" being public flogging, loss of tonsure and six months in jail, among other punishment. In 1143 or 1144, a professor at the University of Bologna named Gratian, known as the "Father of the Science of Canon Law," identified in his work the *Decretum*, the sexual sin by a priest that he called *stuprum pueri*, which is the sexual use of boys by an adult male.

31. In 1961, the Vatican issued an instruction on the training of candidates for the priesthood, which was based upon the 1917 Code of Canon Law which stated:

Advancement to religious vows and ordination should be barred to those who are afflicted with evil tendencies to homosexuality or pederasty, since for them the common life and priestly ministry would constitute serious dangers.

32. This knowledge that Catholic clergy were sexually abusing minors continued through the middle ages and into recent history. In 1962, Pope John XXIII approved the publication *De Modo Procedendi in Causis Solicitationis*, a special procedural law for solicitation of sex in the confessional. This document contained prohibitions prohibiting clergy from having

sex with minors under the age of sixteen. This document was distributed to every bishop and major religious superior in the world and was to be kept by them with the deepest secrecy. In addition, this document reflected the Catholic Church's insistence on maintaining the highest degree of secrecy regarding the worst sexual crimes perpetrated by clergy.

33. In 1947, a priest named Fr. Gerald Fitzgerald founded a religious order of priests called the Servants of the Paracletes. This religious order was founded in order to assist and treat Catholic clergy who experienced mental health problems. By 1952, Fr. Fitzgerald wrote that he had already treated a handful of priests who had sexually abused minors. By 1963, the Paracletes were treating so many sexually abusive clergy that they developed a shorthand code, "code 3," to describe the offense. By 1966, the Paracletes began specializing in treatment of pedophile Catholic clergy.

34. As early as 1971, the issue of sexual misconduct by clergy was being discussed in the Commonwealth of Massachusetts. Bishop Bernard Flanagan, Bishop of Worcester (Massachusetts) testified that as early as February 1971, there had been discussions about sexual misconduct among priests. According to Bishop Flanagan, "I think by 1971 I had heard of other cases of this type [sic] sexual misconduct and I knew that they were taking place in other dioceses too."

35. That same year, Dr. Conrad Baars and Dr. Anna Terruwe presented a scholarly paper titled "The Role of the Church in the Causation, Treatment and Prevention of the Crisis in the Priesthood" to the 1971 Synod of Bishops at the Vatican and to the U.S. Conference of Catholic Bishops about psychiatric problems in Catholic clergy and how psychosexual immaturity manifested itself in heterosexual and homosexual activity.

36. In 1990, psychologist and priest, A.W. Richard Sipe, published a study involving 1,500 priests that concluded that six (6) percent of priests were sexually involved with minors.

37. In 1985, the public prosecution of a priest in Lafayette, Louisiana led to the creation of the 100-page document titled “*The Problem of Sexual Molestation by Roman Catholic Clergy: Meeting the Problem in a Comprehensive and Responsible Manner*” by Fr. Thomas Doyle, F. Ray Mouton and Fr./Dr. Michael Peterson. This document was distributed to every Catholic Bishop and religious order ordinary in the United States. A significant portion of this document describes how significant that the sexual abuse of children by Catholic clergy had become.

38. Defendants allowed Br. Galligan to have unsupervised and unlimited access to minor children, at Church of the Nativity in Bronx, New York, located at the time within the Archdiocese of New York.

39. At all times material, Br. Galligan was employed by Defendant Archdiocese of New York.

40. At all times material, Br. Galligan was employed by Defendant Church of the Nativity.

41. At all times material, Br. Galligan was employed by Defendant Marist Brothers

42. At all times material, Br. Galligan remained under the direct supervision, employ, and control of the Defendant Archdiocese of New York.

43. At all times material, Br. Galligan remained under the direct supervision, employ, and control of the Defendant Church of the Nativity.

44. At all times material, Br. Galligan remained under the direct supervision, employ, and control of the Defendant Marist Brothers.

45. Upon information and belief, before Plaintiff was sexually abused by Br. Galligan, Defendants had actual or constructive knowledge of material facts regarding Br. Galligan’s sexual misconduct, impulses, and behavior.

46. Despite clear indications of danger, Defendants’ took no steps to discover the

specific nature of Br. Galligan's problems or to determine whether he was fit to work with children or to protect children from him, thereby increasing the likelihood that Plaintiff would be harmed.

47. Plaintiff was raised in a devout Roman Catholic family, regularly celebrated mass, received the sacraments, and participated in church-related activities. Plaintiff, therefore, developed great admiration, trust, reverence, and respect for the Roman Catholic Church and its agents, the Archdiocese of New York and its agents, including the Archbishop/Bishop, and Br. Galligan.

48. Defendants held Br. Galligan out as a qualified Roman Catholic priest, and undertook the education, religious instruction, and spiritual and emotional guidance of Plaintiff. The Archbishop/Bishop exercised a direct role over Plaintiff. Accordingly, Plaintiff placed trust in Defendants so that Defendants and their agents gained superiority and influence over Plaintiff. Defendants entered into a special relationship with the Plaintiff and his family.

49. Defendants owed Plaintiff a duty of reasonable care because it assumed duties owed to Plaintiff and had superior knowledge about the risk that Br. Galligan posed to Plaintiff, the risk of abuse in general in its programs, and/or the risks that their facilities posed to minor children. Defendants had the duty to protect the moral purity of Plaintiff and other Roman Catholic children within the Archdiocese of New York.

50. Defendants owed Plaintiff a duty of reasonable care because they assumed that duty and because they solicited youth and parents for participation in its youth programs.

51. Defendants owed Plaintiff a duty of reasonable care because they undertook custody of minor children, including Plaintiff.

52. Defendants owed Plaintiff a duty of reasonable care because they promoted its facilities and programs as being safe for children.

53. Defendants owed Plaintiff a duty of reasonable care because they held out its agents

including Br. Galligan as safe to work with children.

54. Defendants owed Plaintiff a duty of reasonable care because they encouraged parents and children to spend time with its agents; and/or encouraged its agents, including Br. Galligan, to spend time with, interact with, and recruit children.

55. Defendants had a duty to Plaintiff to protect him from harm because Defendants' actions created a foreseeable risk of harm to Plaintiff.

56. Defendants breached their duties by exposing Plaintiff to a known pedophile.

57. Defendants breached their duties by exposing Plaintiff to a priest Defendants knew or should have known was a pedophile.

58. Defendants breached their duties by recruiting, hiring, and maintaining Br. Galligan in a position of authority over children.

59. Defendants breached their duties by exposing Br. Galligan to children.

60. Defendants breached their duties by leaving Br. Galligan alone with children unsupervised.

61. Defendants breached their duties by inducing Plaintiff and his parents to entrust Plaintiff to Br. Galligan.

62. Defendants breached their duties by failing to follow policies and procedures designed to prevent child sex abuse and/or failing to implement sufficient policies and procedures to prevent child sex abuse.

63. Defendants breached their duties by failing to take reasonable measures to make sure that policies and procedures to prevent child sex abuse were working.

64. Defendants breached their duties by failing to adequately inform families and children of the known risks of child sex abuse within the Archdiocese of New York.

65. Defendants breached their duties by holding out their employees and agents,

including Br. Galligan, as safe and wholesome for children to be with.

66. Defendants breached their duties by failing to investigate risks of child molestation.

67. Defendants breached their duties by failing to properly train the workers at institutions and programs within Defendants' geographical confines.

68. Defendants breached their duties by failing to have any outside agency test their safety procedures.

69. Defendants breached their duties by failing to protect the children in their programs from child sex abuse; failing to adhere to the applicable standard of care for child safety.

70. Defendants breached their duties by failing to investigate the amount and type of information necessary to represent the institutions, programs, and leaders and people as safe.

71. Defendants breached their duties by failing to respond to and/or investigate information of improper conduct of employee or agent with children, including Br. Galligan.

72. Defendants breached their duties by failing to properly train their employees to identify signs of child molestation by fellow employees.

73. Defendants breached their duty to use ordinary care in determining whether their facilities were safe and/or to determine whether they had sufficient information to represent their facilities as safe.

74. Defendants breached their duty of care by recruiting, hiring, and maintaining Br. Galligan at their facilities.

75. Defendants breached their duty of care by maintaining a dangerous condition on the premises of their facilities (i.e., a priest Defendants knew or should have known posed a risk of pedophilic harm to children).

76. Defendants breached their duty of care by holding out their facilities as a safe and moral place for children, which they were not.

77. Defendants breached their duty of care by failing to have sufficient policies and procedures to prevent abuse at their facilities.

78. Defendants breached their duty of care by failing to investigate risks at their facilities.

79. Defendants breached their duty of care by failing to properly train the workers at their facilities and/or failing to have any outside agency test their safety procedures.

80. Defendants breached their duty of care by failing to investigate the amount and type of information necessary to represent their facilities as safe.

81. Defendants breached their duty of care by and failing to train their employees properly to identify signs of child molestation by fellow employees.

82. Defendants breached their duties to Plaintiff by holding out clergy members, including Br. Galligan, as safe, moral, and trustworthy people and by failing to warn Plaintiff and his family of the risk that Br. Galligan posed and the known risks of child sexual abuse by clerics in general.

83. Defendants also failed to warn Plaintiff about any of the knowledge that the Defendants had about child sex abuse perpetrated by clergy or Br. Galligan.

84. Defendants breached their duties to Plaintiff by failing to report Br. Galligan's abuse of children to the police and law enforcement.

85. Defendants further breached their duties by hiding a pedophile and engaging in a cover-up of abuse perpetrated by Br. Galligan.

86. Defendants knew or should have known that some of the leaders and people working at Catholic institutions within the Archdiocese of New York were not safe for children.

87. Defendants knew or should have known that they did not have sufficient information about whether or not their leaders and people working at Catholic institutions within

the Archdiocese of New York were safe around children.

88. Defendants knew or should have known that there was a risk of child sex abuse for children participating in Catholic programs and activities within the Archdiocese of New York.

89. Defendants knew or should have known that they did not have sufficient information about whether or not there was a risk of child sex abuse for children participating in Catholic programs and activities within the Archdiocese of New York.

90. Defendants knew or should have known that they had other agents who had sexually molested children. Defendants knew or should have known that child molesters have a high rate of recidivism. Defendants knew or should have known that there was a specific danger of child sex abuse for children participating in Defendants' youth programs.

91. Defendants held their leaders and agents out as people of high morals, as possessing immense power, teaching families and children to obey these leaders and agents, teaching families and children to respect and revere these leaders and agents, soliciting youth and families to their programs, schools, marketing to youth and families, recruiting youth and families, and holding out the people that worked in the programs as safe for children/youth.

92. Defendants made negligent representations to Plaintiff and his family during each and every year of his minority. Plaintiff and/or his family relied upon these representations, which resulted in Plaintiff being put in a vulnerable situation with Br. Galligan who harmed him.

93. In approximately 1983 to 1986, when Plaintiff was approximately 9 to 13 years old, Plaintiff was an altar boy at Church of the Nativity and a student at Church of the Nativity's school. At about this same time, Br. Galligan sexually abused Plaintiff.

94. Br. Galligan engaged in unpermitted, harmful, and offensive sexual contact with the Plaintiff on the physical premises of and around Church of the Nativity. Br. Galligan sexually assaulted Plaintiff when Plaintiff was a minor and without Plaintiff's consent.

95. Defendants allowed Br. Galligan to have unsupervised and unlimited access to young children at Church of the Nativity located at the time within the Archdiocese of New York.

96. At all times material, Br. Galligan was employed by, or an agent of, Defendants Archdiocese of New York, Church of the Nativity, and Marist Brothers.

97. At all times material, Br. Galligan was on duty as a priest 24 hours per day, 7 days per week.

98. At all times material, Br. Galligan remained under the direct supervision, employ, and control of the Defendants Archdiocese of New York, Church of the Nativity, and Marist Brothers.

99. At all times material, Defendants had the right to control the means and manner of Br. Galligan's performance.

100. At all times material, Defendants paid Br. Galligan's salary and paid for Br. Galligan's health insurance and other benefits.

101. At all times material, Defendants furnished an office and other materials, supplies, and tools required for Br. Galligan to perform in his position as a priest.

102. At all times material, Defendants controlled the premises where Br. Galligan performed as a priest.

103. At all times material, Defendants had the power to terminate the employment of Br. Galligan.

104. Upon information and belief, before Plaintiff was sexually abused by Br. Galligan, Defendants had actual or constructive knowledge of material facts regarding Br. Galligan's sexual misconduct, impulses, and behavior, but failed to act on that knowledge and exposed Plaintiff as a child to Br. Galligan, thereby increasing the likelihood that Plaintiff would be harmed.

105. As a direct result of Defendants' negligence, breached duties, the sexual abuse,

sexual exploitation, and Defendants' conduct, Plaintiff has suffered and will continue to suffer great pain of mind and body, severe and permanent emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, humiliation and psychological injuries, was prevented and will continue to be prevented from performing his normal daily activities and obtaining the full enjoyment of life, has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling all to this Plaintiff's damage in excess of the jurisdiction of all lower courts.

**AS FOR A SECOND CAUSE OF ACTION FOR RESPONDEAT
SUPERIOR/VICARIOUS LIABILITY AGAINST THE DEFENDANTS
ARCHDIOCESE OF NEW YORK, CHURCH OF THE NATIVITY, AND
MARIST BROTHERS**

106. Plaintiff realleges, incorporates and restates all previous paragraphs above as if set forth fully herein.

107. Among other duties, Defendants employed Br. Galligan to operate programs, including youth, altar boy and spiritual counseling programs at Church of the Nativity.

108. Defendants created a master-servant relationship with Br. Galligan, employing him to interact and supervise children participating in programs at Church of the Nativity.

109. The unwanted contact by Br. Galligan upon Plaintiff occurred during his regular working hours and at the place of his employment with Defendants while performing duties of a priest on behalf of his employers.

110. The sexual contact by Br. Galligan occurred in the course and scope of his employment with Defendants.

111. The sexual contact by Br. Galligan was generally foreseeable to Defendants.

112. The sexual contact by Br. Galligan was closely connected to what he was employed to do as a priest with Defendants, and/or was otherwise naturally incidental to his job duties.

113. Br. Galligan's conduct was motivated, at least in part, by a desire to serve his employer's business interests or otherwise meet the objectives of his employment, however misguided.

114. Alternatively, Br. Galligan's conduct constituted an authorized, minor deviation from his employment that was authorized and/or ratified by Defendants.

115. As a direct and proximate result of Br. Galligan's conduct, Plaintiff has suffered damages for which his employer is now liable.

**AS FOR A THIRD CAUSE OF ACTION FOR NEGLIGENT HIRING,
RETENTION AND SUPERVISION AGAINST THE ARCHDIOCESE OF NEW YORK,
CHURCH OF THE NATIVITY, AND MARIST BROTHERS**

116. Plaintiff realleges, incorporates and restated all previous paragraphs above as if set forth fully herein.

117. At all material times, Defendants Archdiocese of New York, Church of the Nativity, and Marist Brothers, by and through their agents, managers, employees, and directors owed a duty to Plaintiff to use reasonable care to protect his safety, care, well-being and health while he was under the care, custody or in the presence of the Defendants. These duties encompassed the use of reasonable care in the hiring, retention and supervision of Br. Galligan and otherwise providing a safe environment for children.

118. Prior to the sexual misconduct perpetrated by Br. Galligan upon Plaintiff, Defendants Archdiocese of New York, Church of the Nativity, and Marist Brothers knew, or in the exercise of reasonable care, should have known, of the general problem of Catholic clergy engaging in sexual misconduct with children who were in Archdiocese of New York, Church of the Nativity, and Marist Brothers programs.

119. Prior to the sexual misconduct perpetrated by Br. Galligan upon Plaintiff, Defendants Archdiocese of New York, Church of the Nativity, and Marist Brothers knew, or in the exercise of reasonable care, should have known, that Br. Galligan was unfit for the duties assigned to him, that he did not exhibit appropriate behavior with children, and otherwise posed a risk of perpetrating unwanted sexual contact upon children.

120. Given actual or constructive knowledge of Br. Galligan's dangerous propensities specifically, the Defendants had a duty to act reasonably in all decisions relating to his hiring, supervision, and retention as an employee.

121. Defendants failed to exercise reasonable care in one or more of their decisions to hire, supervise, and retain Br. Galligan and therefore exposed Plaintiff to an unreasonable risk of harm.

122. Defendants Archdiocese of New York, Church of the Nativity, and Marist Brothers affirmed and ratified Br. Galligan's misconduct with Plaintiff. Given the actual and constructive knowledge of the likelihood that Br. Galligan and/or other clergy would engage children in unwanted sexual contact, the unwanted sexual contact of Plaintiff was reasonably foreseeable to Defendants Archdiocese of New York, Church of the Nativity, and Marist Brothers.

123. Defendants Archdiocese of New York, Church of the Nativity, and Marist Brothers, and their agents had superior knowledge of the likelihood that Br. Galligan would engage in unwanted sexual contact with clients that he encountered in his position as a priest and had a duty to take precautions to lessen the risk that Plaintiff would be the victim of unwanted sexual contact.

124. At all relevant times, Defendants Archdiocese of New York's, Church of the Nativity's, and Marist Brothers' acts and omissions created an environment which fostered

unwanted sexual contact and exploitation against the people it had a duty to protect, including Plaintiff.

125. At all relevant times, Defendants had inadequate policies and procedures to protect children entrusted to their care and protection, including Plaintiff, which substantially contributed to the creation of a dangerous environment.

126. As a direct and proximate result of the negligence of Defendants, Plaintiff suffered severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life, and has incurred and/or will incur costs for treatment and will continue to do so in the future. These injuries are permanent and ongoing in nature.

**AS FOR A FOURTH CAUSE OF ACTION FOR NEGLIGENCE/PREMISES
LIABILITY AGAINST ARCHDIOCESE OF NEW YORK, CHURCH OF THE
NATIVITY, AND MARIST BROTHERS**

127. Plaintiff realleges, incorporates and restates all previous paragraphs as if set forth fully herein.

128. Plaintiff was a business invitee of Defendants when Br. Galligan engaged him in unwanted sexual contact.

129. Defendants owed Plaintiff a duty to protect him from dangerous conditions on their premises that they knew about, or in the exercise of reasonable care could have discovered.

130. Defendants owed Plaintiff a duty to provide a reasonably safe environment where he would be free from the threat of unwanted sexual contact while on Defendants' premises.

131. Defendants owed Plaintiff a duty to take reasonable precautions to ensure his safety while on the premises of Defendants.

132. Prior to the sexual misconduct perpetrated by Br. Galligan upon Plaintiff, Defendants knew, or in the exercise of reasonable care, should have known, of the general problem of priests and other clergy engaging in sexual misconduct with children.

133. Prior to the sexual misconduct perpetrated by Br. Galligan upon Plaintiff, Defendants knew, or in the exercise of reasonable care, should have known, that Br. Galligan was unfit for the intimate duties assigned to him, that he did not exhibit appropriate behavior with children, and otherwise posed a risk of perpetrating unwanted sexual contact upon children.

134. Defendants breached the duty owed to Plaintiff by failing to make the premises reasonably safe for Plaintiff despite what they knew or should have known about the existence of a potential threat of harm to Plaintiff on their premises.

135. Defendants breached the duty they owed to Plaintiff by failing to warn Plaintiff of the dangers and risks involved in participating in programs at Church of the Nativity given their superior knowledge of the potential risk of harm to Plaintiff.

136. At all relevant times, Defendants had inadequate policies and procedures to protect children entrusted to their care and protection, including Plaintiff, which substantially contributed to the creation of a dangerous environment.

137. As a direct and proximate result of the negligence of Defendants, Plaintiff suffered severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life, and has incurred and/or will incur costs for treatment and will continue to do so in the future. These injuries are permanent and ongoing in nature.

WHEREFORE, Plaintiff demands judgment against the Defendants for a sum in excess of the jurisdictional limits of all lower courts on each and every Cause of Action stated above, together with the costs and disbursements and other expenses necessary in this action.

New York, New York
Dated: September 17, 2019

Yours, etc.,



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VERIFICATION

STATE OF Florida)
COUNTY OF Brevard)ss
)

PEDRO RIVERA being duly sworn, deposes and says: I am the Plaintiff in this action, I have read the foregoing **COMPLAINT** and know the contents thereof; the same is true to my own knowledge, except as to those matters therein to be alleged on information and belief, and as to those matters I believe them to be true.

Pedro Rivera
PEDRO RIVERA

Sworn to and sworn before me this
13th day of September, 2019

Gen Ma
Notary Public

